

# Memorandum



**Date:** (Second Reading 12-04-07)  
October 2, 2007

**To:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**From:** George W. Burgess  
County Manager

Agenda Item No. 7(H)

**Subject:** Ordinance Amending Section 2-8.1.1.1.1 of the Miami-Dade County Code Relating to the Small Business Enterprise Program

## **Recommendation**

It is recommended that the Board of County Commissioners approve amendments to Section 2-8.1.1.1.1 of the Miami-Dade County Code relating to the Small Business Enterprise (SBE) Program. The amendments will 1) change the requirement for the agreement between the prime and the SBE subcontractor to reflect the percentage of work the subcontractor will provide or perform to meet the required subcontractor goal rather than the price the subcontractor is to be paid, and 2) remove language allowing an SBE/Micro to retain its certification for one additional year from the date it is formally notified it has exceeded the size limits.

## **Scope**

The impact of this ordinance is countywide.

## **Fiscal Impact/Funding Source**

There is no fiscal impact to the County.

## **Track Record/Monitor**

Small Business Affairs/Department of Procurement Management (SBA/DPM) is responsible for implementing and monitoring the SBE Program.

## **Background**

On February 1, 2005, the Board approved the implementation of Section 2-8.1.1.1.1 of the Miami-Dade County Code establishing the SBE Program. The SBE Program applies to all County and Public Health Trust contracts for the purchase of goods and services, including professional services other than architectural, engineering, landscape architectural and land surveying professional services governed by Florida Statutes 287.055. The SBE Program does not apply to construction, architectural and engineering, leases or rental of real property, licenses and permits, concessions, franchise agreements, contracts for attorney and/or legal services, and contracts for investment banking services.

Currently, when a subcontractor goal is applied, the bidder is required to submit an executed subcontractor agreement listing the SBE subcontractor(s) the bidder proposes to utilize in order for such participation to count towards meeting the specified goal. Each agreement must be in writing, executed by the bidder and the SBE, and must specify the type of goods or services the SBE is to provide, as well as the price it will be paid.

With Request for Proposals in particular, proposals are received in two parts: the technical qualifications and the proposal price. The technical qualifications portion which includes the executed subcontractor agreement must be reviewed by SBA/DPM to determine compliance with the established SBE subcontractor goal. This compliance report is subsequently forwarded to a Selection Committee which evaluates and ranks the proposals. The proposal price is reviewed after the technical selection process is completed.

Because the executed subcontractor agreement lists the proposal price and is divulged prior to the commencement of the selection process, this may affect the technical evaluation process. The proposed amendment will require that the work indicated in the executed subcontractor agreement between the bidder and the subcontractor be reflected as a percentage goal ensuring that the proposal price does not affect the evaluation process.

The current language in the SBE ordinance also allows firms that have exceeded the size limits to retain their certification for one additional year, upon formal notification from the County that it has exceeded the size limits. It is proposed that this language be removed and allow firms to remain only through the contract period on awarded contracts and any options to renew on the contract. The graduated firm shall not be eligible for any new contracts under the SBE program. This amendment provides clarification and will help to avoid potential bidding and award issues.

A handwritten signature in black ink, appearing to read 'Susanne M. Torriente', written over a horizontal line.

Susanne M. Torriente  
Assistant County Manager

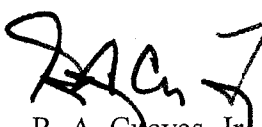


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**DATE:** December 4, 2007

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 7(H)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor

Veto \_\_\_\_\_

Override \_\_\_\_\_

Agenda Item No. 7(H)  
12-04-07

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTION 2-8.1.1.1.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PERTAINING TO THE SMALL BUSINESS ENTERPRISE (SBE) PROGRAM; CLARIFYING SUBMISSION REQUIREMENTS IN COMPETITIVE SELECTION PROCESSES WITH SEPARATE SEALED PRICING ENVELOPES; AND REMOVING LANGUAGE ALLOWING A SBE/MICRO ENTERPRISE TO RETAIN ITS CERTIFICATION FOR ONE ADDITIONAL YEAR FROM THE DATE IT IS FORMALLY NOTIFIED; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 2-8.1.1.1.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Section 2-8.1.1.1.1 Small Business Enterprise Program**

\* \* \*

**(3) Program:**

\* \* \*

- (c) Contracts greater than \$50,000. The following SBE measures may be applied to contracts greater than \$50,000:

\* \* \*

**2. Subcontractor goals:**

\* \* \*

- b. Bid documents for contracts to which a SBE subcontractor goal is applied shall provide that a bidder must submit with its bid a copy of subcontract agreements with those SBE subcontractors the bidder proposes to utilize in order for such proposed participation to be eligible to be counted towards meeting the goal. Each agreement shall be in writing, shall be executed by the bidder and the SBE, and shall specify the type of goods or services the SBE is to provide and the price the SBE is to be paid therefore. >>The solicitation documents for any competitive selection involving a separate evaluation of sealed price envelopes shall require that the technical submission contain a document duly executed by the proposer and any SBE proposed to be used in satisfaction of a goal which states the percentage that the amount of the SBE's contract bears to the overall contract amount. Copies of the subcontract agreements reflecting the amounts constituting the stated percentages shall be included together with the pricing proposal.<< Each agreement shall incorporate the prompt payment obligations and rights provided by the Small Business Enterprise Program. Bid documents for contracts to which a SBE subcontractor goal is applied shall provide that a bidder that is a SBE may itself meet the goal to the extent it is certified to provide the type of goods or services that are the subject of the contract. Bid documents for contracts to which a SBE subcontractor goal is applied shall provide that a bidder that is a joint venture one or more of whose venturers is an SBE must submit with its bid a copy of the joint venture agreement in order for such venturer(s)'s participation to be eligible to be counted towards meeting the goal. The joint venture agreement shall be in writing, signed by all venturers, and shall

specify the ownership, control, profits and financial risk assumed by each venturer, including the SBE venturer(s). The joint venture agreement shall also specify the portion of the contract work (i.e., the goods or services to be provided) to be performed by the SBE venturer(s) in detail separately from the work to be performed by the non-SBE member. The bidder shall receive credit towards meeting the goal to the extent that the combined dollar value of the SBE's participation as shown in the joint venture agreement submitted in conformity with and meeting the requirements of this paragraph bears to the total contract price bid by the bidder.

\* \* \*

(h) Certification

\* \* \*

2. Any SBE/Micro Enterprise that exceeds the size limits ~~[[established by this Section shall be allowed to retain its certification for one (1) additional year from the date it is formally notified it has exceeded the size limits]]~~ >>shall immediately be graduated from the program after formal written notification<<. Such SBE/Micro Enterprises shall be allowed to remain through the contract period on awarded contracts >>and any options to renew on the contract. The graduated firm shall not be eligible for any new contracts under the SBE program under the existing certification<<. With exception of provisions described in the ordinance for graduation from the SBE/Micro Enterprise program, loss of certification may lead to removal of the firm from continued participation in the Small Business Enterprise program.

\* \* \*

**Section 2.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article" or other appropriate word.

**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  to form and legal sufficiency.

Prepared by: 

Hugo Benitez